

**PATENTS**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

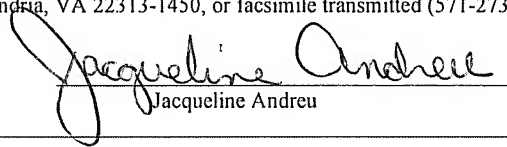
**Applicant:** Eric Bornstein  
**Serial No.:** 10/649,910  
**Filed:** 26 August 2003  
**Title:** NEAR INFRARED MICROBIAL ELIMINATION SYSTEM  
**Examiner:** David Shay  
**Group Art Unit:** 3735  
**Docket No.:** 72287-019  
**Confirmation No.:** 5770

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**CERTIFICATE OF MAILING OR TRANSMISSION**

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450, or facsimile transmitted (571-273-8300) to the US PTO, on the date indicated below.

Date: 04 April 2008

  
Jacqueline Andreu

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Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

***Summary of Examiner Interview under 37 CFR § 1.133***

The following is a summary, pursuant to 37 CFR § 1.133, of an in-person interview conducted on 25 March 2008 at the U.S. P.T.O. between Examiner Shay, inventor, Dr. Eric Bornstein, and Applicant's attorney, G. Matthew McCloskey, regarding the subject application.

As a preliminary matter, Dr. Eric Bornstein, and Applicant's attorney both thank Examiner Shay for holding the in-person interview.

During the referenced interview, particular claims of the subject application were not

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Interview Summary submitted 04 April 2008  
Summary of Interview held 25 March 2008

discussed. The cited article by Neuman et al., "Characterization of Photodamage to Escheria Coli in Optical Traps," Biophy J. November 1999, pp 2865-2863, Vol. 77 ("Neuman") and U.S. Patent No. 4,669,466 to L'Esperance ("L'Esperance") were discussed as prior art. Agreement was reached with respect to the claims.

More particularly, the discussion included an explanation that the Neuman reference specifically teaches away from *in vivo* use of the wavelengths claimed by Applicant in the subject application.

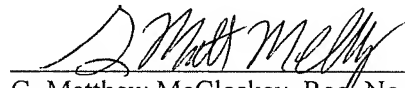
If a telephone conference will expedite prosecution of the application, the Examiner is invited to telephone the undersigned.

The Commissioner is authorized to charge any fees that may be required for prosecution of the subject application, and to credit any overpayments to our deposit account, No. 50-1133.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

Date: 04 April 2008

  
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